

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: November 19, 2008

Division: County Attorney

Bulk Item: Yes X No     

Staff Contact Person: Bob Shillinger ext. 3470

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**AGENDA ITEM WORDING:** Approval to appeal decision in Sandra Carter v. Monroe County, CA K 07-822, to Third District Court of Appeals.

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**ITEM BACKGROUND:** Legal staff is seeking authorization to file a petition for writ of certiorari to challenge the Circuit Court's appellate decision in the Carter case. The petition would be filed with the Third District Court of Appeals in Miami. The Circuit Court applied the incorrect law when it grafted a portion of part II of chapter 162, which is used in civil citation proceedings in County Court, onto an administrative proceeding before the Special Magistrate, which is governed by part I of chapter 162. Specifically, the Court held that a code enforcement inspector must identify the precise date and time when a violation is alleged to have occurred in the notice of violation like an inspector must do when he or she issues a civil citation. Under part I of chapter 162, an inspector is only required to identify when the alleged violation was found by the inspector. The appellate courts have clearly held that the procedural requirements for civil proceedings do not apply to administrative proceedings. Moreover, this particular issue was never raised before the Special Magistrate nor by the parties' in their appellate briefs.

The (part II) civil citation process is typically used for violations committed in the presence of the inspector or where a violator does not own property that is subject to a lien. The less formal (part I) administrative process is used where a violation is not committed in the presence of the inspector and allows for the imposition of fines, payment of which may be secured through liens and money judgments. Under Florida law, the procedural requirements for an administrative proceeding are much less formal than those required for a civil citation proceeding in County Court. If the Circuit Court's decision is allowed to stand unchallenged, code enforcement operations will differ in Monroe County and its municipalities than the rest of the State. Filing the petition will cost \$300 and consume about 30 hours of staff time.

The underlying code enforcement case (case number CE06060069) before the Special Magistrate involved a violation of the County's floodplain ordinance. On June 5, 2007, the Code Enforcement Special Magistrate entered an Order finding the property owner in violation of 6 counts of the Monroe County Code. The property owner raised the affirmative defense of laches before the Special Magistrate, arguing that the County had waited too long to bring an enforcement action after a prior owner had built the apartment without obtaining permits. The Special Magistrate found that the property owner had not met her burden of proof to establish the affirmative defense of laches. The property owner appealed to the Circuit Court, which side-stepped that issue and issued the opinion based upon the rationale described above. The Special Magistrate's ruling and the Circuit Court's opinion are attached as backup.

Because this is a floodplain ordinance case, FEMA staff has verbally expressed an interest in the outcome of this case to County staff. When a prior Commission failed to appeal a somewhat similar ruling in 2000, FEMA took steps to suspend the County from participation in the National Flood Insurance Program (NFIP). That effort was averted but resulted in the current format of the inspection program. Correspondence from FEMA arising from the prior case is included in the backup.

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**PREVIOUS RELEVANT BOCC ACTION:** N/A

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**CONTRACT/AGREEMENT CHANGES:** N/A

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**STAFF RECOMMENDATIONS:** Approval.

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**TOTAL COST:** \$300.00      **BUDGETED:** Yes xx No   

**COST TO COUNTY:** \$300.00      **SOURCE OF FUNDS:** ad valorem

**REVENUE PRODUCING:** Yes    No X      **AMOUNT PER MONTH**        **Year**   

**APPROVED BY:**    County Atty X      OMB/Purchasing    Risk Management   

**DOCUMENTATION:**      Included xx      Not Required   

**DISPOSITION:**         **AGENDA ITEM #**   

Revised 2/05



**BEFORE THE CODE ENFORCEMENT SPECIAL MAGISTRATE  
LARRY J. SARTIN  
MONROE COUNTY, FLORIDA**

**MONROE COUNTY, FLORIDA,**

**Petitioner,**

**vs.**

**CASE NO. CE06060069**

**SANDRA CARTER,**

**Respondent.**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

THIS CASE having come on for public hearing before the Code Enforcement Special Magistrate on May 31, 2007, at the Monroe County Government Regional Center, located at 2798 Overseas Highway, Marathon, Florida, the Special Magistrate, having reviewed the evidence, heard testimony under oath and being otherwise fully apprised in the premises, makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Respondent is the owner of record of property located at BK 12, LT 18, KOEHN'S SUB, PLS-33, BIG PINE KEY, MONROE COUNTY, FLORIDA (RE#00315880-000000). She purchased the property in August 2001.
2. The Respondent was duly noticed of the hearing and previous hearings at which this matter was heard.

3. Respondent presented evidence and argument, both in writing and verbally, to support her claim of the defense of laches. Petitioner responded to this argument by suggesting that the doctrine could not apply where, as here, the nonconforming downstairs enclosure has never been lawfully permitted; that Respondent failed to prove all of the elements of laches; and that the doctrine should not apply where the offending property use defeats Petitioner's effort to protect the public.

4. Without reaching two of the three issues raised by Petitioner, it is found that Respondent failed to prove two of the elements necessary to apply laches. First, Respondent failed to prove that Petitioner had knowledge or notice of the offending property use. While the evidence proved that a former code enforcement official had been on the property on non-official business, Respondent did not prove that the official was aware of the existence of the nonconforming downstairs enclosure. That enclosure was hidden from view by screening, based upon photos of the property admitted in evidence. Secondly, given the fact that Respondent had worked as a realtor in Monroe County for a number of years, it is found that, absent inquiry, Respondent should not have assumed that Petitioner never take action to require removal of the offending use.

5. Based upon the foregoing, it is found that the above-identified property is in violation of Monroe County Code as more particularly described in Exhibit "A," which is attached hereto and incorporated herein.

Accordingly, it is

**ORDERED AND ADJUDGED:**

A. Respondent is in violation of the Monroe County Code and is ordered to comply with the provisions of said code by July 20, 2007. A compliance/review hearing will be held on July 27, 2007.

B. Upon complying, Respondent shall notify the Code Inspector in this case, who shall re-inspect the property and notify the Code Enforcement Department of compliance.

C. Noncompliance by the above date may result in the imposition of a daily fine for each day thereafter that Respondent is in violation.

D. Pursuant to Section 162.07, Florida Statutes (2006), cost has been levied for the administrative recovery for prosecution and investigation in the amount of \$100.00 (ONE HUNDRED DOLLARS).

E. In the event of nonpayment of the fines/liens imposed, a certified copy of an order imposing a fine may be recorded in the public records and shall thereafter constitute a lien against the land on which the violation or violations exist and upon any other real or personal property owned by the violator.

F. Respondent has the right to appeal this Order to the Circuit Court of Monroe County. If you wish to appeal, you must do so no later than thirty (30) days from the date of this Order. Failure to timely file a written Notice of Appeal will waive your right to appeal.

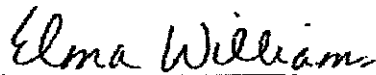
DONE AND ORDERED at the Division of Administrative Hearings, Tallahassee, Florida,  
this 5th day of June, 2007.

  
\_\_\_\_\_  
Larry J. Sartin  
Code Enforcement Special Magistrate

STATE OF FLORIDA  
COUNTY OF LEON

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared LARRY J. SARTIN, personally known to me, who executed the foregoing and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this  
5th day of June, 2007.

  
\_\_\_\_\_  
Elma Williams  
Notary Public



Elma Williams  
Commission # DD481642  
Expires December 2, 2009  
BRANDT-Tony Fann Insurance Inc. 300-325-7019

## EXHIBIT "A"

### VIOLATION(S):

COUNT 1. Pursuant to Monroe County Code §9.5-317(b)(1)d(viii) - Additional Standards: In all areas of special flood hazard where base flood elevation data has been provided the following provisions are required: (i) Residential Construction:....d. Except as noted in paragraph 7 of this subsection (b), the space below the lowest floor...(viii) The area enclosed below the base flood elevation shall not be used for human habitation.

COUNT 2. Pursuant to Monroe County Code §6-4(a)(c) - Unsafe buildings.(a) Abatement Required: All unsafe buildings shall be abated using the Standard Unsafe Building Abatement Code, 1997 edition, promulgated by the Southern Building Code Congress International, Inc., subject to all amendments, modifications or deletions hereinafter contained. (c)Amendment: As adopted by Monroe County, section 302.1.1(4), Standard Unsafe Building Abatement Code, shall read as follows: "A statement advising that any person having legal interest in the property may be prosecuted before the code enforcement special master, in county court, or in any other manner provided by law for failure to repair, vacate or demolish the offending building in the manner set forth in the notice."

COUNT 3. Pursuant to Monroe County § 6-41(a) Certificate of Occupancy Required: No new building shall be occupied or a change made in the occupancy of an existing building until after the building official has issued a certificate of occupancy.

COUNT 4. Pursuant to Monroe County Code §9.5-111(1)- A building permit is required prior to the following: (1)Any work specified in chapter 6.0; The home on this property was permitted as a single family residence. Any development to revise that use requires an after the fact permit and all inspections.

COUNT 5. Pursuant to Monroe County Code §9.5-231(a) No structure or land in Monroe County shall hereafter be developed, used or occupied unless expressly authorized in a land use district in this division. A duplex is not permitted as of right in this land use district.

COUNT 6. Pursuant to Monroe County Code §9.5-317(b)(1)d(v) The interior portion of an enclosed area below an elevated building may not be partitioned except that garages may be separated from storage and entryway. In the event an existing enclosure is enlarged, the walls between the existing enclosure and the additional enclosure must be deleted. Enclosed areas below an elevated building and laterally attached enclosed areas below base flood elevation must be void of utilities that would service the enclosure and cannot be temperature controlled.

### CORRECTION(S):

COUNT 1. Contact the Monroe County Building Department and either (1) obtain an after the fact permit and all inspections required, or (2) obtain a demolition permit and remove as directed.

COUNT 2. Contact the Monroe County Building Department and either obtain a building permit to bring the structure into compliance with current building codes, or obtain a demolition permit and remove all offending structures on the property.

COUNT 3. Contact the Monroe County Building Department and obtain all necessary inspections and/or permits which are required for a Certificate of Occupancy.

COUNT 4. Contact the Monroe County Building Department and either (1) obtain an after the fact permit and all inspections required, or (2) obtain a demolition permit and remove as directed.

COUNT 5. Cease and desist all unauthorized use(s) until proper permits and approvals are obtained from Planning and/or the Building departments. If proper permits or approvals cannot be obtained, remove as directed.

COUNT 6. Remove all partitioned walls and/or utilities not meeting requirements of Monroe County Code.

**CONTACT YOUR CODE INSPECTOR UPON COMPLIANCE**

Middle Keys (305)289-2810

I HEREBY CERTIFY that a true and correct copy of the above has been furnished to the Respondent(s) attorney, Lee Rohe, Esq. via fax at (305)-745-4075, this 8th day of June, 2007.



Karen L. Bass  
Code Enforcement Liaison

Please make check or money order payable to Monroe County Code Enforcement and mail to 2798 Overseas Highway, Marathon, FL 33050.

**IN THE CIRCUIT COURT OF THE 16<sup>TH</sup>  
JUDICIAL CIRCUIT OF THE STATE OF  
FLORIDA IN AND FOR MONROE COUNTY**

**APPELLATE DIVISION**

**CASE NO: 2007-CA-882-K**

**SANDRA L. CARTER,**

**Appellant**

**Vs.**

**MONROE COUNTY CODE  
ENFORCEMENT DIVISION,**

**Appellee**

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**OPINION OF SEPTEMBER 25, 2008**

**An Appeal from the Code Enforcement Special Magistrate, Larry Sartin.**

**Lee Robert Rohe, Esq., Counsel for Petitioner.**

**✓ Christine Limbert-Barrows, Esq., Assistant County Attorney, Counsel for  
Respondent.**

**PER CURIAM:**

**Appellant, SANDRA CARTER, challenges the decision of Magistrate Larry Sartin finding her in violation of six specified sections of the Monroe County Code, as set forth in Exhibit A to Magistrate Sartin's Order dated June 5, 2007.**

**Appellant owns property located on Big Pine Key, Monroe County, Florida, which she purchased for value from her uncle in August, 2001. The house itself was built in 1975-76, and the evidence before Magistrate Sartin showed that the downstairs enclosure which was the object of the County's enforcement action, has existed since at least 1983. The real property record card with an attached photograph from the**



1970's shows that the downstairs has already been enclosed, and the tax assessor's records show the enclosure was known to the government no later than 1983.

Although a variety of issues have been presented by Appellant, a fundamental issue of pleading and proof is dispositive of this case. The County failed to comply with its own ordinances, and with §162.21(c)3, Florida Statutes, both of which require that a code enforcement citation indicate the date of the violation. The citation is, in fact, the operative pleading in code enforcement cases, and the failure to include a required element, such as the date of the offense, means that no cause of action was properly stated by Monroe County before Magistrate Sartin, and the citation should have been dismissed with leave to amend.

The importance of the County's obligation to allege the date of the offense cannot be minimized. In this case, there was evidence before the Magistrate that the downstairs enclosure existed at least since 1983, perhaps longer, and it is undisputed that the County's notice of violation was issued on or about June 8, 2007. Regardless of whether a statute of limitations applies<sup>1</sup>, the failure by the County to allege, and prove, the date of the offense has created an enforcement situation where the County is belatedly taking action against a property owner, at least twenty-four years after the violation was apparently known to the County. Under these circumstances, it is entirely possible that the doctrine of laches would properly preclude such a belated enforcement. In fact, evidence in the record shows that witnesses have either died or moved away, and by bringing this belated enforcement, the County has effectively put

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<sup>1</sup> It would appear that the four year statute of limitations in Section 6.3-14, Monroe County Code, bars the violations alleged in Counts 2-5, but this will become clear when the County properly alleges the date of the offense.

the homeowner in an impossible situation, where she is obliged to try to prove the County's knowledge of the alleged violation as a basis for laches, decades after the fact.

This procedure is not consistent with fundamental fairness, nor is it in compliance with the law above cited. Reading the County's administrative code in para materia, and harmonizing the various provisions so that sense is made of the entirety as well as individual portions, this Court finds, and holds, that the County is obliged to allege, and to prove, the date of the purported violation as part of its prima facie case.<sup>2</sup>

This point becomes more acute in light of the fact that the primary alleged violation, that is, construction in areas of special flood hazard, (Section 9.5-317, Monroe County Code) only applies to "new construction", which is defined as "those structures for which the 'start of construction' commenced on or after the effective date of the flood plain management regulation adopted by the community which is January 1, 1975," (Sec. 9.5-316.2(f).), thereby excluding from its purview any construction not falling within this definition. Only by requiring the County to allege and prove the date of the alleged violation, i.e., the date of the alleged unlawful construction, can the Magistrate (or the Court), determine whether a cause of action has been stated under Section 9.5-317, of the Monroe County Code.

Accordingly, the Order of Magistrate Larry Sartin is hereby VACATED, and this matter is remanded to Magistrate Sartin, or other presiding Special Magistrate, with directions to dismiss the underlying citation without prejudice. The County shall be permitted, if it is able, to plead and prove violations in conformity with this Opinion.

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<sup>2</sup> This ruling does not affect the County's authority to seek appropriate injunctive relief regarding public nuisances, or dangerous situations in which the protection of the public requires abatement of a situation which is demonstrated to be an immediate hazard to the public.

The Court declines to rule on all remaining issues, such as laches, equitable estoppel, and the balance of arguments made by Appellant, until on remand, a legally sufficient charging document has been filed by the County, with all pleading requirements and the burden of proof properly enforced by the Special Magistrate. If, upon compliance with this procedure, violations are found to exist by the Special Magistrate, Appellant may renew on appeal her previously made arguments regarding laches and equitable estoppel before this Court. On the other hand, if the Special Magistrate finds that the County has failed to either properly plead or prove the alleged violations, these issues will become moot.

**REVERSED AND REMANDED** for further proceedings in compliance with this Opinion.

**DONE and ORDERED** in Chambers at Key West, Monroe County, Florida, this 25<sup>th</sup> day of September, 2008.

David J. Audlin, Jr.

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DAVID J. AUDLIN, JR.  
CIRCUIT JUDGE

3-05-1996 8:30PM

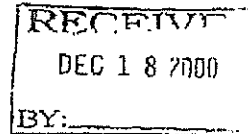
FROM



## Federal Emergency Management Agency

Washington, D.C. 20472

DEC 12 2000



The Honorable George R. Neugent  
Mayor  
County of Monroe  
35 Ships Way  
Big Pine Key, FL 33043

Dear Mayor Neugent:

This is in response to your October 23, 2000 letter. In your letter you requested that Federal Emergency Management Agency recognize the recent Circuit Court ruling by Circuit Judge Payne that the State's 4-year statute of limitations applies to efforts by Monroe County to enforce its floodplain management ordinance. You indicated that this would allow the County "to avoid the tremendously negative economic impacts which the systematic removal of thousands of BFE (below flood elevation) enclosures would have on this county." As an alternative to the inspection procedure, you suggested that the County can achieve "mitigation in floodplain areas.... by addressing future development and removal, through attrition, of the many pre-FIRM (Flood Insurance Rate Map) structures." While I appreciate your concerns and welcome your suggestions, we are unable to implement these measures for reasons discussed below. I apologize for the delay in responding to your letter.

It is our understanding that the Florida Circuit Court ruled on October 6, 2000 that the State's 4-year statute of limitations applies to efforts by Monroe County, Florida to enforce its floodplain management ordinance. We believe that this case could affect not only the implementation of the inspection procedure, but also Monroe County's ability, in general, to enforce its floodplain management ordinance on buildings in the Special Flood Hazard Area older than four years.

With respect to the inspection procedure, we are concerned that as a result of the Circuit Court ruling one of the major purposes of establishing the inspection procedure would not be accomplished. The pilot inspection procedure was established for the following purposes:

- 1) To help the communities verify that structures comply with the community's floodplain management ordinance and to initiate enforcement actions on those structures that do not comply; and
- 2) To ensure that property owners are paying flood insurance premiums commensurate with their flood risk.

If as a result of this case, the County cannot enforce its floodplain management ordinance on buildings with illegally built enclosures that are older than four years, then the first objective of

3-26-1996 8:30PM

FROM

this procedure cannot be fully achieved. The major reason for developing this inspection procedure is to provide the County an additional means to identify whether buildings are in compliance with the community's floodplain management ordinance so that your community can identify and remedy violations of illegally built enclosures below elevated buildings. FEMA developed this inspection procedure in response to a citizen's task force recommendation. We would not have gone forward with the inspection procedure without the enforcement component as a part of this process.

This case, however, has a much larger implication for the County with respect to its participation in the National Flood Insurance Program (NFIP). When communities join the NFIP, they must agree to adopt and enforce the minimum requirements of the program. The Circuit Court case would hinder the county's ability to carry out its responsibility under the program to enforce its floodplain management ordinance. We assume this case may also have implications for the county to enforce building codes and other land use regulations.

It is our understanding that the County has filed a motion for rehearing. If the Circuit Court refuses the motion for rehearing or holds a rehearing and affirms its ruling prohibiting enforcement on buildings older than four years, we would view the prohibition on enforcement as a defect in the County's floodplain management program. A prohibition on enforcing the minimum NFIP requirements in Special Flood Hazard Areas for buildings that were built after the County adopted its floodplain management ordinance is not in compliance with the legislation establishing the NFIP and the NFIP Floodplain Management Regulations at Title 44 CFR Section 60.2 with respect to a community's participation in the NFIP. Therefore, should the results of the rehearing confirm the prohibition on enforcement, FEMA would expect the County to appeal the decision.

We also respectfully disagree with your assertion that "Even worst-case scenario models do not exhibit the complete elimination of below flood construction." We received similar comments on the proposed rule and addressed these concerns extensively in the final rule. To reiterate, from our insurance experience, we know that buildings that are not constructed to the minimum NFIP requirements suffer five times the amount of flood damages that compliant structures suffer. Our insurance experience further reveals that post-FIRM buildings with illegally built enclosures suffer twice as much flood damage when compared to post-FIRM buildings without enclosures or with compliant enclosures. Our post-disaster field investigations confirm that buildings not built in compliance typically suffer more damages.

Finally, in response to your suggestions that mitigation could be achieved by addressing future development and removal, through attrition, of the many pre-FIRM structures and by allowing clemency through permitting for some structures, but requiring other illegally built enclosures, i.e., rental units, to comply that violated local zoning regulations would be contrary to the requirements in Monroe County's floodplain management ordinance. Allowing clemency would only result in continued conversion of enclosures below elevated buildings and an increase in the number of violations in the County. Furthermore, allowing residents to live in enclosures below the Base Flood Elevation would conflict directly with sound floodplain management. People living in ground level enclosures below the Base Flood Elevation may be subject to significant

REC 10 00 11:07a

JAMES L ROBERTS Co Admin

305-292-4544

P. 6

3-05-1996 8:31PM

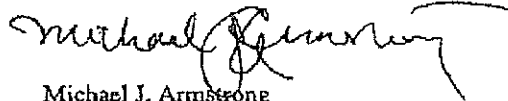
FROM

P. 4

adverse health and safety risks in the event of a flood disaster especially any occupants that are unable or decide not to evacuate.

We look forward to hearing the results of the rehearing and what actions the County intends to take should it be unsuccessful at the rehearing.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael J. Armstrong", with a stylized flourish at the end.

Michael J. Armstrong  
Associate Director for Mitigation

cc: FEMA Region IV



RECEIVED 5-13-02  
MAYOR MCCOY

Federal Emergency Management Agency

Region IV  
3003 Chamblee-Tucker Road  
Atlanta, GA 30341

May 8, 2002

copy  
Dianne  
Bohr

The Honorable Charles "Sonny" McCoy  
Mayor, Monroe County  
1100 Simonton St., Suite 205  
Key West, Florida 33040

Dear Mayor McCoy:

This office has received Resolution 187-2002, "Exhibit 1- Implementation Plan for Monroe County Flood Insurance Inspection and Compliance Program," as adopted by the Monroe County Commission on April 17, 2002. This document was submitted to satisfy the issue pertaining to the County's stated inability to enforce its floodplain management ordinance on structures with illegal enclosures taxed for more than four years. This was the third of three items in our letter of January 14, 2002, that the County was to have addressed to avoid probation. When implemented, we believe the plan will cover all classes of buildings relative to the Insurance Inspection Program. We are, therefore, lifting the pending probation date of May 31, 2002.

There are two issues that deserve comment at this time, however. First, we have committed to review the technical accuracy of the coastal flood study model for Monroe County. Our review will be completed during calendar year 2002. Second, we are asking the County to seek relief from the Florida Legislature on the four-year statute of limitation problem. This is critical as the State has already provided an opinion that there is no problem with the Florida Statute. In the more general context of everyday administration of your floodplain management ordinance, failure to remedy this problem for all classes of buildings leaves portions of your ordinance unenforceable. Consistent with Title 44 Code of Federal Regulations Sec. 59.24, the County could be removed from the National Flood Insurance Program (NFIP) for not having a complaint ordinance. This is a broader issue than the Insurance Inspection Program and deals with the fundamentals of NFIP participation.

We are encouraged by the actions that the Commission has taken to avoid probation. We look forward to working with the County to implement the Insurance Inspection Procedure over the next several years. Questions concerning this, or other floodplain management concerns, should be addressed to our Federal Insurance and Mitigation Division at (770)-220-5400.

Sincerely,

Kenneth O. Burris, Jr.  
Regional Director



## Federal Emergency Management Agency

Region IV  
3003 Chamblee-Tucker Road  
Atlanta, GA 30341

November 25, 2002

Honorable Dixie Spehar  
County Mayor, Monroe County  
500 Whitehead St.  
Key West, Florida 33040

DEC 2 2002

COUNTY ADMINISTRATOR

Dear Mayor Spehar:

This office requested and received a copy of a letter dated October 2, 2002, from Tom Tedcastle, General Counsel and Director of Bill Drafting for the Florida House of Representatives to Rep. Ken Sorensen. This letter apparently answers Rep. Sorensen's request to "...retroactively remove the statute of limitations for violations of certain county ordinances in Monroe County." We believe this letter to be connected with the County's obligation to the Federal Emergency Management Agency (FEMA) to seek legislative remedies to the County's stated inability to pursue code compliance actions for structures falling within the parameters of Judge Payne's ruling. Since we do not have a copy of the letter or request that the County asked Rep. Sorensen to pursue nor the letter or request that Rep. Sorensen asked the Florida legislature to pursue, our comments and concerns are limited to what is stated in the response from Mr. Tedcastle.

First, this office never requested that the County seek to "...retroactively remove the statute of limitations for certain county ordinances in Monroe County." We stated that Judge Payne's ruling relative to Monroe County's enforcement of its floodplain ordinance essentially made the ordinance unenforceable for a certain class of buildings. This being the case, Monroe County does not have an enforceable ordinance that meets the provisions of 44 CFR 60.3. Therefore, the County risks removal from the National Flood Insurance Program (NFIP).

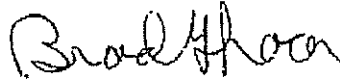
Second, the County was to seek a remedy from the State legislature to allow it to enforce its floodplain management ordinance for all classes of buildings within the Special Flood Hazard Areas (SFHA) of Monroe County as depicted on the Flood Insurance Rate Maps. If neither the County nor the State is interested or capable of pursuing a remedy or the County cannot come up with a current or future land use ordinance to address all classes of buildings in the SFHA of the unincorporated County, the County will risk being removed from the NFIP.

Before this action occurs we wish to give the County ample opportunity to comply. We therefore request that the County provide us with any and all correspondence from the Commission to Rep. Sorensen and from Rep. Sorensen to the State. In the meantime we would appreciate a letter from the County's as to their understanding of Mr. Tedcastle's



letter to Rep. Sorensen and what the County intends to do to seek a remedy to the stated inability to enforce the floodplain ordinance provisions for all classes of buildings. The County must possess the land use authority to implement at a minimum the provisions of 44 CFR 60.3 for all buildings in the SFSA.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad Loar". The signature is fluid and cursive, with the first name "Brad" and last name "Loar" clearly distinguishable.

Brad G. Loar, Chief  
Community Mitigation Programs Branch  
Federal Insurance and Mitigation Division